

7.44 Checklist 4: Sentencing

☐1. If probationer is not represented by counsel, readvise probationer of the right to the assistance of an attorney, and that if he or she is financially unable to obtain an attorney but wants an attorney, the court will appoint one at public expense.

☐Ask probationer to affirm that he or she does not want an attorney's assistance; or

☐If counsel is requested, adjourn hearing and appoint counsel.

Begin here if sentencing immediately follows guilty plea.

☐2. If there is a presentence information report, give probationer, defense attorney, and prosecutor a reasonable opportunity to read and discuss the report.

☐A prison sentence may not be imposed without an updated presentence information report and compliance with the court rule governing sentencing.

☐3. Give the parties a reasonable opportunity to explain or challenge information in the presentence report.

☐4. If information in the report is challenged, apply a "preponderance of the evidence" standard and make a finding regarding the issue, or state that the challenged information will not be considered.

☐Correct or delete challenged information, if appropriate; and

☐Provide defense attorney an opportunity to review the corrected report before it is sent to the Department of Corrections.

☐5. Give the probationer, defense attorney, prosecutor, and victim, if present, an opportunity to make a statement.

☐6. Continue, modify, extend, or revoke probation.

☐If probation is revoked, impose sentence, stating minimum and maximum sentence.

☐7. Grant credit for time served.

☐8. If a sentence of incarceration is imposed, advise probationer that he or she has:

☐The right to appeal if a violation was found following a contested hearing; or

☐The right to file an application for leave to appeal if a violation was found following a guilty plea.

☐9. If a sentence of incarceration is not imposed, advise the probationer that he or she has the right to file an application for leave to appeal.